1945

File No. O. Drugs Control /45

Legal Department

A BRANCH

Subject:— Opinions under the Drugs Control Order 1943

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File No. O. Drugs Control /45

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Gen. 194 e.

C O N T E N T S.

Legal Department File No. O. Drugs Control / 45.

S.No.	H.I. / O.No.	Subject.	Pages.
1.	3490 / 3.5.45.	Drugs Control Order, 1943.	1.
2.	4131 / 30.5.45.	Rule 13 of Rules of business - Authority to sign the orders.	3.

5-Cs.

H.V.V.
10/7.

Office of the R.L.A.

The words "without reasonable cause" cannot be usefully defined for the present reference. Many cases occur in which these words give rise to difficulty. There can be no finality in any particular case until the Court decides. Until that decision, it must remain a matter of opinion whether refusal to sell was without reasonable cause or not. My opinion is that in this case there was reasonable cause.

2. Sanction of the Provincial Government is required for prosecutions under the Drugs Control Order. That means in effect that Government will not prosecute in those cases in which Government is satisfied that there was reasonable cause for refusal. In this way Government comes to be in effect the judge in many cases of what is a reasonable cause. Government perhaps do advise importers and wholesale dealers to follow certain methods of distribution which may clash with the strict interpretation of clause 11 of the Drugs Control Order, but which may be essential for the control of the drug trade. It seems to be from this point of view that the Government of India completely approved of Messrs. Parke Davis & Co.'s action in refusing to sell to Messrs. Kantilal Manilal & Co. It is from this point of view that the Superintendent of Excise's letter with its threatening reminder of the letter of law has grated both on the Government of India and Messrs. Parke Davis and Company.

Sd/- P.N.M.
2/5/45.

Remembrancer of Legal Affairs.

U.O.R. to F.D.(Supply) No. 3490, dated the 3rd May 1945.

4-Cs.

M.V.V.
10/7.

Office of the R.L.A.

The view taken by the Magistrate regarding Dr. Shirname's authority to sign is correct. The order is signed by Dr. Shirname as being specially empowered by Government under rule 13 of the Rules of Business; but the empowerment order is defective in as much as it is signed by Mr.Gandhi for the Chief Secretary, when it should have been signed by the Chief Secretary himself or by Mr. Gandhi as Assistant Secretary. After these defects are rectified and a fresh sanction is given, these will be no legal objection to prosecution/ the accused again (see Emperor Vs. Amanat Kadar, 31 B.L.R. 146). In the fresh sanction order it would be advisable to state briefly but clearly in the preamble the facts constituting the offence.

Sd/- P.N.M.
30/5/45.

Remembrancer of Legal Affairs.

U.R. to F.D. (Supply) No. 4131, dated the 30th May 1945.

4-Cs.

M.V.V.
10/7.